

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-13839-2023

Date of decision: 04.05.2023

RAJAT

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Aman Pal, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

DEEPAK MANCHANDA, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.934 dated 03.11.2022 under Sections 147, 149, 302 and 323 of IPC (Sections 302, 147 & 149 of IPC deleted) (Sections 304, 34 and 325 of IPC added later on), registered at Police Station Azad Nagar Hisar, District Hisar.

Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case. It is alleged that on the intervening night of 02/03.11.2022, one Ankit called his friend Aashish (deceased) as he had a fight with someone in the wedding function and in order to resolve the said matter Aashish (deceased) went to New Amar Bihar Colony with his friends where both the parties fought again. Thereafter, father of deceased-Aashish (complainant) got to know that his son has died due to head injury alleged by a brick, however, complainant was not present at the spot and he made the said complaint only after getting information (hearsay) from other person. He has further argued that injured Ankit, Aashish (deceased) along with some other persons themselves had

gone to the house of the petitioner during the night time and attacked upon them with bricks. Learned counsel for the petitioner further contends that the said incident was duly recorded in CCTV camera and as per footage Ankit along with deceased-Aashish and other persons attacked on the house of the petitioner where in self-defence Pawan, Pardeep and other co-accused threw back the brick bats outside on the road without any specific aim and intention to cause injury to anyone. Learned counsel for the petitioner submits that petitioner was not involved in throwing the brick bats and this fact has also been disclosed by the co-accused Parveen in his disclosure statement where it is mentioned that petitioner was sitting behind the wall, who is a handicapped person and cannot throw a brick with one hand. Learned counsel has supplied the copy of order dated 12.04.2023 vide which charges were framed against the petitioner where the trial Court has also observed that complainant party including deceased themselves went to the house of the petitioner in the night time and it is only in retaliation the brick bats were thrown back by the complainant party without targeting any specific person. Hence the charges were framed under Section 304, 323, 325 IPC read with Section 34 of IPC. Learned counsel further submits that the petitioner is in custody since 19.11.2022 and he is not involved in any other case. He also submits that investigation has already been concluded, wherein, challan stands presented, charges have been framed and out of total 25 prosecution witnesses none has been examined till date and conclusion of the trial will take sufficient time, therefore, the petitioner be enlarged on bail.

On the other hand, learned State counsel assisted by Investigating Officer has opposed the aforesaid prayer on the ground that

allegations levelled against the petitioner are serious in nature. However, he has not disputed the fact that challan stands presented, charges have been framed and out of total 25 prosecution witnesses, none has been examined till date. Learned State counsel also does not dispute the fact that the petitioner is not involved in any other case.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 19.11.2022.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. The State has filed reply dated 28.04.2023 and as per the said reply, nothing has been mentioned therein which could show that the petitioner was the person who caused injury to the deceased which resulted into his death, except that petitioner was member of unlawful assembly. Further, since the investigation has already been completed, challan stands presented, charges have been framed and out of total 25 prosecution witnesses none has been examined yet. Keeping in view that the conclusion of trial would take sufficient time, so no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

May 04, 2023

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(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No